

Message Text

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TAGS: ETRD, EIND, EFIN, EEC

SUBJECT: EC COMMISSION PROPOSAL ON MEMBER STATE COOPERATION
TO PREVENT INTERNATIONAL TAX EVASION AND AVOIDANCE

REF: EC A-356, SEPT. 24, 1973

1. SUMMARY: THE EC COMMISSION ON NOV. 20 APPROVED A COMMUNICATION AND DRAFT EC COUNCIL RESOLUTION CALLING FOR COOPERATION BETWEEN THE TAX AUTHORITIES OF THE MEMBER STATES TO PREVENT INTERNATIONAL TAX EVASION AND AVOIDANCE. ALTHOUGH THE PROPOSED COOPERATIVE ACTIONS ARE NOT DIRECTED PRIMARILY AGAINST MNCs, THE COMMISSION'S SPECIFIC CONCERN WITH PROBLEMS OF TRANSFER PRICING WOULD AFFECT THEM IN PARTICULAR. END SUMMARY.

2. ON NOV. 20, THE EC COMMISSION FOLLOWED UP ON ONE OF THE RECOMMENDATIONS IN TIS PAPER ON MULTINATIONAL CORPORATIONS (SEE REFERENCE AIRGRAM) AND APPROVED A COMMUNICATION AND DRAFT EC COUNCIL RESOLUTION ON THE MEASURES TO BE TAKEN BY THE COMMUNITY IN ORDER TO COMBAT INTERNATIONAL TAX EVASION AND AVOIDANCE. (A COPY OF THE DOCUMENT WAS TRANSMITTED ON NOV. 25 TO EUR/RPE, ATT. R. HARDING).

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3. THE THRUST OF THE COMMISSION'S PAPER IS THAT THE

MEMBER STATE TAX AUTHORITIES MUST COOPERATE IN ORDER TO PREVENT TAX FAUD AND MALPRACTICE AND TO KEEP "ASSOCIATED ENTERPRISES" (I.E. MULTINATIONAL CORPORATIONS LOOSELY DEFINED), FROM GAINING TAX ADVANTAGES BY TRANSFERRING PROFITS FROM ONE COUNTRY TO ANOTHER, (IMPROPER TRANSFER PRICING) OR BY USING TAX HAVENS. THE COMMISSION HAS CONCLUDED THAT NATIONAL TAX AUTHORITIES, EVEN WHERE DOUBLE TAXATION AGREEMENTS EXIST, CANNOT ESTABLISH THE FACTS NECESSARY TO PREVENT TAX EVASION AND AVOIDANCE.

4. THE DRAFT COUNCIL RESOLUTION CALLS UPON THE COMMISSION TO PREPARE SPECIFIC PROPOSALS AS SOON AS POSSIBLE WHICH WOULD PROVIDE FOR MEMBER STATE COOPERATION ALONG THE FOLLOWING LINES:

A) MEMBER STATES WOULD FURNISH EACH OTHER, WHETHER REQUESTED OR NOT, ALL INFORMATION NEEDED TO CORRECTLY ASSESS TAXES ON INCOME OR PROFITS PARTICULARLY IN CASES WHERE:

1) THERE APPEAR TO BE ARTIFICIAL TRANSFERS OF PROFITS BETWEEN ASSOCIATED ENTERPRISES IN DIFFERENT COUNTRIES.

2) TRANSACTIONS ARE CARRIED OUT BETWEEN ENTERPRISES IN TWO MEMBER STATES THROUGH A THIRD COUNTRY IN ORDER TO OBTAIN TAX ADVANTAGES.

) LOSSES OF TAX REVENUES HAVE OCCURRED OR MAY OCCUR FOR ANY REASON WHATEVER.

B) MEMBER STATES WOULD CARRY OUT TAX INVESTIGATIONS ON THE BEHALF OF OTHER MEMBER STATES IF REQUESTED TO DO SO.

C) EMMBER STATES WOULD FACILITATE INVESTIGATIONS BY TAX OFFICIALS OF OTHER MEMBER STATES IN THEIR TERRITORY.

5. THE COMMISSION WOULD ALSO ESTABLISH A PERMANENT WORKING GROUP OF REPRESENTATIVES OF THE MEMBER STATES TO REVIEW AND IMPROVE THE WORKING OF COOPERATIVE TAX ENFORCEMENT PROCEDURES AND TO FORMULATE EC RULES ON TRANSFER PRICING.

6. COMMENT: EC OFFICIALS HAVE TOLD US THAT THE ACTIONS UNCLASSIFIED

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TO BE TAKEN ARE DIRECTED AT INDIVIDUALS OR CORPORATIONS INVOLVED IN TAX EVASION OR AVOIDANCE AND NOT JUST MNCS. ALTHOUGH THIS SEEMS REASONABLE GIVEN THE REPUTEDLY HIGH PROPENSITY OF EUROPEANS TO AVOID DIRECT TAXES, A CRACK-DOWN ON TRANSFER PRICING WOULD AFFECT MULTINATIONALS BECAUSE OF THEIR WIDESPREAD MANUFACTURING BASE IN EUROPE. IN ANY EVENT, THERE IS LIKELY TO BE A VERY LONG TIME LAG BETWEEN THE PRESENTATION TO THE COUNCIL OF THE RESOLUTION DISCUSSED ABOVE AND EVENTUAL COUNCIL

PASSAGE OF SPECIFIC PROPOSALS.

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